



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/451,097	11/30/1999	SHUICHI WATANABE	0033-0630P	8589

7590 09/02/2004

BIRCH STEWART KOLASCH BIRCH LLP
P O BOX 747
FALLS CHURCH, VA 220400747

EXAMINER

LEE, RICHARD J

ART UNIT	PAPER NUMBER
----------	--------------

2613

DATE MAILED: 09/02/2004

21

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/451,097

Applicant(s)

WATANABE, SHUICHI

Examiner

Richard Lee

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,15-18 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,15-18 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2613

1. The request filed on June 17, 2004 for a Request for Continued Examination (RCE) is acceptable and a RCE has been established. An action on the RCE follows.
2. It is noted that the functional language after the term “wherein” as presented in claims 1 and 15, respectively, is construed as showing intended use and desired or purported results without physical support to thereby positively recite the claimed features, and as such no patentable weight is given to the functional language. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function (see attached Interview Summary). Hence, no patentable weight is given to the functional languages as recited in claims 1 and 15 for the purposes of art rejections as shown in the below.
3. Claims 15-18 are objected to because of the following informalities: At claim 15, lines 23-24, “the process of retrieval” should be changed to “image retrieval” for clarity. Appropriate correction is required.
4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 2613

5. Claims 15-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claimed feature “including associated data for transporting, storing or coding the image” as shown in claim 15 recites mutually exclusive operations that is not supported by the Specification.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kazui et al of record (5,642,174).

Kazui et al discloses a scene change detecting device as shown in Figures 1-3, 9, and 10, and the same image retrieval apparatus as claimed in claims 15 and 16, comprising the same index information generating unit (20 of Figure 2, and see Figure 10, column 3, line 65 to column 4, line 14, column 7, lines 56-67) for receiving a frame feature value which is a numerical information representing quantity of a feature contained in a frame of image data, for determining a featured frame among the image data based on the frame feature value in accordance with a request for extracting a featured frame, and for generating index information (i.e., windows 22a-22e of Figure 10 represent index information corresponding to positional

Art Unit: 2613

information of the featured frame that are being read when selected by the user, see column 7, lines 56-67) which is positional information of the featured frame; wherein the frame feature value is calculated by analyzing the image data including associated data for transporting, storing or coding the image, and the frame feature value is not an original form in the image data (such features as claimed are considered inherent within Kazui et al since no patentable weight is given to this functional language, see above paragraph (2)); an image retrieval executing unit (see User of Figure 2, columns 3-5) connected to the index information generating unit, for transmitting the request for extracting the featured frame to the index information generating unit, for receiving the index information from the index information generating unit, for receiving the image data from an external source (see column 3, lines 53-64), and for outputting a frame specified based on the index information (see columns 3-5); wherein the index information is adaptively changed by changing a setting of a threshold value during the process of retrieval (such features as claimed are considered inherent within Kazui et al since no patentable weight is given to this functional language, see above paragraph (2)); wherein the image retrieval executing unit (see User of Figure 2, columns 3-5) is connected to the index information generating unit, transmitting the request for extracting a featured frame to the index information generating unit, receiving the index information from the index information generating unit, receiving the image data and index information from an external source (see column 3, lines 53-64), and outputting a frame specified based on the index information received from the index information generating unit or the index information from the external source (see columns 3-5).

Art Unit: 2613

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takashima of record (5,754,233) in view of Nagasaka et al of record (6,400,890).

Takashima discloses a compression encoding apparatus and recording apparatus and substantially the same image retrieval information storing apparatus as claimed in claims 1 and 27, comprising substantially the same frame feature value generating unit (i.e., within 101 of Figure 11, and see column 15, lines 7-48) for generating a frame feature value which is numerical information representing quantity of a feature contained in a frame of image data; wherein the frame feature value is calculated by using statistics directly associated with motion vector information related to the image data, and the frame feature value is not an original form in the image data (such features as claimed are considered inherent within Takashima since no patentable weight is given to this functional language, see above paragraph (2)); the frame feature value generating unit generates the frame feature value based on the motion vector information (see column 15, lines 7-48); and coding information reading unit (i.e., within 103 of Figure 11) for reading motion vector information from the image data which is coded.

Takashima does not particularly disclose, though, a frame feature value storing unit being connected to the frame feature value generating unit for storing the frame feature value in correlating form with the frame of the image data as claimed in claim 1. However, Nagasaka et al teaches the conventional use of a frame feature value storing unit (i.e., 126 or 128 of Figure 2)

Art Unit: 2613

for storing frame feature value in correlating form with the frame of the image data, and wherein the frame feature value storing unit (126 or 128 of Figure 2) is connected to the frame feature value generating unit (130 of Figure 2). Therefore, it would have been obvious to one of ordinary skill in the art, having the Takashima and Nagasaka et al references in front of him/her and the general knowledge of frame feature generation and storing, would have had no difficulty in providing the frame feature value storing unit 126 or 128 of Nagasaka et al to be connected to the frame feature value generating unit 101 of Figure 11 of Takashima for the same well known buffering of data for timely processings and featured frame representation purposes as claimed.

10. The applicant's arguments from the amendment filed June 17, 2004 have been noted and considered, but are deemed moot in view of the newly interpreted claim features and in view of the above new grounds of rejections.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Harman discloses an image processing system.

McVeigh et al discloses a method and apparatus for performing real time data encoding.

Art Unit: 2613

12. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:


(703) 872-9314, (for formal communications intended for entry)

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (703) 308-6612. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group customer service whose telephone number is (703) 306-0377.


RICHARD LEE
PRIMARY EXAMINER

Richard Lee/rl



8/26/04